

Applicant: Robin Budd, *et al.*  
U.S.S.N.: 09/895,466  
Filing Date: June 29, 2001  
EMC Docket No.: EMC-00-066

### **REMARKS**

This paper is being provided in response to the February 9, 2006 Office Action for the above-referenced application. The Office Action has been carefully considered. Reconsideration and allowance of the subject application, as amended, is respectfully requested.

Claims 1-6 and 8-16 are pending and stand rejected.

Claims 1, 3, 5, 8 and 11, have been amended. Claim 4 has been cancelled.

#### **35 U.S.C. §103(a) Rejections**

The Examiner rejected Claims 1-3 under 35 U.S.C. 103 (a) as being unpatentable over U.S. Patent No. 5,948,079 (Tsai) in view of U.S. Patent No. 2002/0002508 (Dierks) is hereby traversed and reconsideration is respectfully requested in view of the amendments to the claims contained herein and the following remarks. More specifically, independent claim 1 has been amended to contain the subject matter recited in claim 4.

Although claim 4 has been rejected with regard to the teaching of Tsai and Dierks and further in view of Lozowick (U.S. Patent No. 5,228,083), it will be shown that the amended independent claims are not rendered obvious by the combined teachings of the cited references.

The Tsai reference discloses a computer network peripheral device that receives a plurality of data packets from a network of computers and transfers the data packets to a storage unit of a host computer system. The computer network peripheral device includes a respective register for storing each of the plurality of data packets received from the network of computers and includes a data packet portioning unit. The peripheral device includes a buffer writer, coupled to the data packet portioning unit and the storage unit of the host computer system, for

Applicant: Robin Budd, *et al.*  
U.S.S.N.: 09/895,466  
Filing Date: June 29, 2001  
EMC Docket No.: EMC-00-066

transferring the data packet portions of the plurality of data packets to the storage unit of the host computer system in non-sequential order. However, Tsai is totally silent with regard to determining the unavailability of the network and provides no teaching or suggestion of any processing without the network being available.

Dierks teaches an apparatus and method for an improved bulk read socket call. Dierks discloses the monitoring of a flag (SP-MSWAITALL) and when the flag is set the amount of data stored in the socket receive buffer is less than the value of `so_revlen`. When it is determined an “amount of data in the socket receive buffer [is] equal to the value of `so_revlen`, the TCP input processing will wake up the `recv()` tread and the SP-MSGWAITALL flag is reset.” (see ABSTRACT). Hence, Dierks teaches a system wherein input data is collected in a buffer and when an amount of data in the buffer reaches a limit, the data in the buffer is processed. However, Dierks fails to teach or suggest any processing associated with the unavailability of the network, as is recited in the claims.

Lozowick discloses a cryptographic process using a single cryptographic engine in a communication network. Lozowick discloses that outbound packets received from the client interface are immediately parsed to determine if cryptographic processing is required and an appropriate portion of each packet may be cryptographically processed as the packet is received and stored in an outbound buffer memory, until forwarded onto the communication network. Inbound data packets received from the communication network are not immediately parsed but are stored in an inbound buffer memory until the client interface is available. (see ASTRACT).

The instant Office Action states, that with regard to the rejection of claim 4 that “the combination of references [Tsai and Dierks] does not teach writing the packets upon

Applicant: Robin Budd, *et al.*  
U.S.S.N.: 09/895,466  
Filing Date: June 29, 2001  
EMC Docket No.: EMC-00-066

unavailability of the network. Regarding this limitation, Lozowick ... teaches a method in which inbound packets are stored in a buffer (see col. 2, lines 25-29), 51-58). Therefore, if the connection to the network is unavailable but an interface is available, packets are transmitted out of the buffer. Therefore, one of ordinary skill in the art would have been motivated to modify the combination of references in order to implement an optimized data processing method for the event of network disconnection, as taught by Lozowick.” (see instant OA, page 6, lines 4-13).

In this case, the Office Action has acknowledged the lack of teaching or suggestion of Tsai and Dierks with regard to the unavailability of the network and the teachings of Lozowick have been incorporated to allegedly overcome the deficiency noted. However, contrary to the statements made in the Office Action, the deficiency of Tsai and Dierks is not overcome by Lozowick.

As described above, Lozowick discloses that outbound data packets are stored in an outbound buffer for subsequent transmittal over the network and that inbound packets are stored in an inbound buffer until the client interface is available. However, Lozowick fails to teach or suggest that the packets are stored in a buffer when the network is unavailable. Rather Lozowick teaches that the data are always stored in a buffer, independent of the status of the network. Assuming that the network is unavailable, then the output bound packets are placed in the buffer independent of the status of the network. Further Lozowick is silent with regard to the operation of the output buffer when data is not able to be transmitted over the network. In addition, when the network is unavailable, no information is received in the inbound buffer and no further inbound processing is required.

Applicant: Robin Budd, *et al.*  
U.S.S.N.: 09/895,466  
Filing Date: June 29, 2001  
EMC Docket No.: EMC-00-066

A claimed invention is *prima facie* obvious when three basic criteria are met. First, there must be some suggestion or motivation, either in the reference themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine the teachings therein. Second, there must be a reasonable expectation of success. And, third, the prior art reference or combined references must teach or suggest all the claim limitations.

Applicants respectfully submit that even if Tsai, Dierks, and Lozowick were combined, the combined device fails to teach or suggest all the elements recited in the amended independent claims. Accordingly, in view of the remarks herein, Applicant respectfully submits that the rejection of the independent claims has been overcome and requests that the rejection of the independent claims be withdrawn and the claims allowed. .

With regard to claims 2 and 3, these claims depend from claim 1, which has been shown to include a material element not disclosed by the combination of Tsai, Dierks and Lozowick and, hence, allowable over the cited references. Accordingly, claims 2 and 3 are also allowable by virtue of their dependency upon an allowable base claim.

For at least this reason, it is respectfully requested that the rejection be withdrawn and the claims allowed.

The Examiner rejected claims 4-6 and 8-9 as under 35 U.S.C. 103 (a) as being unpatentable over Tsai in view of Dierks in further view of U.S. Patent No. 5,228,083 (Lozowick).

Claims 5-6, and 8-9 depend from claim 1, which has been shown not to be rendered obvious in view of the cited references. Accordingly, these claims are allowable based on their dependency from an allowable base claim. Applicants respectfully request that the obviousness

Applicant: Robin Budd, *et al.*  
U.S.S.N.: 09/895,466  
Filing Date: June 29, 2001  
EMC Docket No.: EMC-00-066

rejection of Claims 5-6 and 8-9 be withdrawn. Claim 4 has been canceled. Hence, the reason for the rejection is no longer relevant.

The examiner rejected claims 11-16 under 35 U.S.C. 103 (a) as being unpatentable over Tsai in view of Lozowick.

With regard to independent claim 11, this claim includes subject matter similar to that recited in claim 1. As shown above, independent claim 1 includes subject matter not disclosed by the combination of Tsai, Dierks and Lozowick.

The deficiencies of Tsai [and Dierks] with respect to instant invention are not overcome by Lozowick. Applicants respectfully submit that even if Tsai [and Dierks] and Lozowick were combined, neither of the two, alone nor in combination, give motivation, teach or suggest instant invention to one of ordinary skill in the art as described in Claim 11. Accordingly, based on the above, Applicants respectfully request that the rejection of Claim 11 be withdrawn.

Claims 12-16 depend from Claim 11 and these claims are allowable for at least the same reasons as for Claim 11.

Applicants respectfully submit that even if Tsai [and Dierks] and Lozowick were combined the combination fails to teach or suggest the invention as described. Accordingly, based on the above, applicant respectfully requests that the rejection of Claims 11-16 be withdrawn.

In view of the foregoing, applicant respectfully submits that the application is in condition for allowance and respectfully requests favorable reconsideration and withdrawal of all outstanding objections and rejections.

Applicant: Robin Budd, *et al.*  
U.S.S.N.: 09/895,466  
Filing Date: June 29, 2001  
EMC Docket No.: EMC-00-066


In the event the Examiner deems personal contact desirable in the disposition of this case, the Examiner is invited to call the undersigned attorney at (914) 798 8505.

Please charge all fees occasioned by this submission to EMC Corporation Deposit Account No. 05-0889.

Respectfully submitted,

Dated: \_\_\_\_\_

5/9/2006



Carl A. Giordano, Esq. (Reg. No. 41,780)  
Attorney for Applicant  
EMC Corporation  
Office of General Counsel  
44 S. Broadway, 7<sup>th</sup> fl.  
Telephone: (914) 798 8505

Kindly provide all written communication to:

EMC Corporation  
Office of General Counsel  
176 South Street  
Hopkinton, MA 01748